

REMARKS

Reconsideration of the present application, as amended, is respectfully requested.

In the Office Action, the Examiner found that the Application was in condition for allowance, except for the certain informalities which are addressed below. Applicant gratefully acknowledges the Examiner's indication that this application contains allowable subject matter. Prosecution has been closed on the merits in accordance with Ex Parte Quayle, 1935 C.D. 11, 453 O.G. 213.

In the Office Action, the Examiner indicated that the abstract should be revised to eliminate legal phraseology. In response, the current abstract has been deleted and a new abstract has been substituted in accordance with the Examiner's suggestion.

In response to the examiner's suggestion that headings should be added, Applicants respectfully decline to add the headings as they are not required (rather are merely suggested) in accordance with MPEP §608.01(a). It is respectfully submitted that "should" (as recited in MPEP §608.01(a) is suggestive or permissive, and not mandatory as in "must" or "shall". For example, 37 CFR 1.77(b) recites:

The specification should include the following sections in order: (Emphasis added)

Similarly, 37 CFR 1.77(c) recites:

The text of the specification sections defined in

IN THE ABSTRACT

Please delete the current Abstract and substitute the following abstract presented on a separate page.

paragraphs (b)(1) through (b)(12) of this section, if applicable, should be preceded by a section heading in uppercase and without underlining or bold type. (Emphasis added)

By contrast, 37 CFR 1.77(b)(5) recites:

(5) Reference to a "Sequence Listing," a table, or a computer program listing appendix submitted on a compact disc and an incorporation-by-reference of the material on the compact disc (see § 1.52(e)(5)). The total number of compact discs including duplicates and the files on each compact disc shall be specified. (Emphasis added)

Thus, it is respectfully submitted that a distinction is made between "should" and "shall", where "should" is permissive, and "shall" is mandatory.

Further, it should be noted that section headings are not statutorily required for filing a non-provisional patent application under 35 USC 111(a), but per 37 CFR 1.51(d) are only guidelines that are suggested for applicants' use. (See Miscellaneous Changes in Patent Practice, Response to comments 17 and 18 (Official Gazette, August 13, 1996) [Docket No: 950620162-6014-02] RIN 0651-AA75 ("Section 1.77 is permissive rather than mandatory. ... [T]he Office will not require any application to comply with the format set forth in 1.77").

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Accordingly, it is respectfully submitted that headings are not required in accordance with MPEP §608.01(a).

In view of the above, it is respectfully submitted that the present application is in condition for allowance, and a Notice of Allowance is earnestly solicited.

Respectfully submitted,

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